

## Article - Public Safety

[\[Previous\]](#)[\[Next\]](#)

§13A–106.

(a) A victim of an offense under this title has all rights conferred by State law in non–military courts, including:

(1) the right to be reasonably protected from the accused;

(2) the right to reasonable, accurate, and timely notice provided by military trial counsel of:

(i) a public hearing concerning the continuation of confinement prior to trial of the accused;

(ii) a preliminary hearing under § 13A–603 of the title relating to the offense;

(iii) a court–martial relating to the offense, including all related motions, hearings, pleas, sentencing hearings, alterations or suspension, and all related filed documents, including those related to § 13A–606 of the title;

(iv) a public proceeding of the service clemency and parole board relating to the offense; and

(v) the release or escape of the accused, unless such notice may endanger the safety of any person;

(3) the right not to be excluded from any public hearing or proceeding described in paragraph (2) of this subsection, unless the military judge or preliminary hearing officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this title would be materially altered if the victim heard other testimony at that hearing or proceeding;

(4) the right to be reasonably heard at:

(i) a public hearing concerning the continuation of confinement prior to trial of the accused;

(ii) a sentencing hearing relating to the offense;

(iii) a proceeding involving clemency and parole related to the offense; and

(iv) any public military proceedings, including appeals, in connection with the victim's legal rights where those rights are implicated;

(5) the reasonable right to confer beforehand with the counsel representing the Government at a proceeding described in paragraph (2) of this subsection and at a proceeding under § 13A-301, § 13A-405, § 13A-601.1, and § 13A-902;

(6) the right to receive full restitution before a forfeiture may be received by the military as provided by law;

(7) the right to proceedings free from unreasonable delay; and

(8) the right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this title.

(b) (1) Subject to paragraph (2) of this subsection, in the case of a victim of an offense under this title who is under 18 years of age but not a member of the armed forces, incompetent, incapacitated, or deceased, the military judge shall designate a representative of the estate of the victim, a family member, or another suitable individual to assume the victim's rights under this section.

(2) The individual designated under paragraph (1) of this subsection may not be the accused.

(c) Nothing in this section may be construed:

(1) to authorize a cause of action for damages;

(2) to create, to enlarge, or to imply a duty or obligation to a victim of an offense under this title or other person for breach of which the State or any of its officers or employees could be held liable for damages other than restitution; or

(3) to impair the exercise of discretion under § 13A-601 or § 13A-605 of this title.

(d) (1) If the victim of an offense under this title believes that a preliminary hearing ruling under § 13A-603 of this title or a court-martial ruling violates the rights of the victim afforded by a provision specified in paragraph (4) of this subsection, the victim may file an interlocutory appeal to the Court of Military Appeals, and thereafter file a certiorari petition with the Maryland Court of Appeals,

and an automatic stay of the military proceedings shall take effect on the filing of the notice of appeal until final disposition of the appeal, in order to require the preliminary hearing officer or the court martial, including in connection with § 13A–716 of this title, to comply with the provision.

(2) If the victim of an offense under this title is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court–martial trying the accused for the offense, the victim may appeal such an order in the same manner described in paragraph (1) of this subsection to the Court of Military Appeals to quash the order.

(3) An appeal described in this subsection shall be forwarded directly to the Court of Military Appeals, by such means as may be prescribed by the Governor, and, to the extent practicable, shall have priority over all other proceedings before the court.

(4) Paragraph (1) of this subsection applies to the protections afforded by:

(i) this subtitle;

(ii) § 13A–603 of this title;

(iii) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim’s sexual background;

(iv) Military Rule of Evidence 513, relating to the psychotherapist–patient privilege;

(v) Military Rule of Evidence 514, relating to the victim advocate–victim privilege; and

(vi) Military Rule of Evidence 615, relating to the exclusion of witnesses.

(e) (1) On notice by counsel for the Government to counsel for the accused of the name of an alleged victim of an offense under this title whom counsel for the Government intends to call as a witness at a proceeding under this title, counsel for the accused shall make any request to interview the victim through the Special Victim’s Counsel or other counsel for the victim, if applicable.

(2) If requested by an alleged victim who is subject to a request for interview under paragraph (1) of this subsection, any interview of the victim by

counsel for the accused shall take place only in the presence of the counsel for the Government, a counsel for the victim, or, if applicable, a victim advocate.

[\[Previous\]](#)[\[Next\]](#)